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Office of the Director
Group 3600

In re application of
Donald H. Michel
Application No. 09/927,829
Filed: August 10, 2001
For: APPARATUS AND METHOD FOR
GRAVEL PACKING

DECISION ON REQUEST
FOR WITHDRAWAL OF
ATTORNEY

This is a decision on the request filed on April 16, 2003, and the renewed request filed on May 1, 2003 under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**.

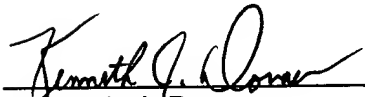
Under 37 CFR 1.36 an attorney may withdraw only upon application to and approval by the Commissioner. It should be noted that a withdrawal is effective when approved, not when filed. Besides giving due notice to his or her client and delivering to the client all papers and property to which the client is entitled as specified under 37 CFR 10.40, approval of such a request requires that the following conditions be met:

- A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms;
- B) A proper reason for the withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided; and
- C) If withdrawal is requested in accordance with 37 CFR 10.40(c) above, there must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a).

The requests to withdraw as attorney is not accepted in the above-identified application because the request lacks conditions B) and C) above.

As to condition B), the following reasons apply for the request filed on April 16, 2003 or the request filed on May 1, 2003. In the request filed on April 16, 2003, the reason for withdrawal is "due to a conflict of interest." This reason does not fall within one of the proper reasons for withdrawal listed under 37 CFR 10.40. In the renewed request filed on May 1, 2003, there is no indication in the file record of the assignee being the "client." Absent a 3.73(b) statement, the "client" referred to in 37 CFR 10.40 is seen as being those individuals who conferred power upon the attorneys, in this case the inventors.

As to condition C), an office action was mailed January 17, 2003. Therefore, the expiration date for a response is July 17, 2003 which is less than 30 days from decision of this petition to request withdrawal as attorney.


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KJD/dxn: 6/23/03